Government of **Western Australia**
Department of **Health**

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Dear Premier

MANDATORY VACCINATION OF WORKERS AND PROOF OF VACCINATION DIRECTIONS

In my advice of 21 April 2022, I recommended that several Public Health and Social Measures (PHSMs), including the proof of vaccination requirements for entry into a range of venues, be removed, given the very high vaccination coverage rates that Western Australia (WA) has achieved in the general community. I indicated in the advice that it would be prudent to continually re-examine the ongoing need for the remaining vaccination mandates, including the remaining proof of vaccination mandates and the workforce mandates that restricted access to various workplaces to vaccinated staff.

Vaccination continues to be the most effective mitigation measure against COVID-19. Vaccination exerts a population effect by decreasing rates of infection and transmission, and reducing the impact of severe disease. WA achieved a noteworthy milestone recently, when the WA population over 16 years reached greater than 80% booster (dose 3) vaccination rate. This outcome has not yet been achieved by any other Australian jurisdiction and is well above the national average rate, which is reported as only 69.6% for the eligible population[1]. This high vaccination coverage has contributed greatly to the protection of individuals, and, more broadly, to the protection of the health services, which have not been overwhelmed by the high case numbers experienced to date.

Proof of Vaccination requirements

Given the exceptionally high vaccination rates of the general population in WA, there is decreasing requirement for ongoing monitoring and recording of vaccination status of visitors as a condition of entry to venues, even to high risk settings. While an unvaccinated person does have a higher likelihood of transmitting COVID-19, this risk can be mitigated by mask wearing in a high risk setting and refusal of entry to people

[1] Reference: covid-19-vaccination-vaccination-data-17-may-2022_0.xlsx (live.com)

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who are symptomatic and/or close contacts, in line with the current Directions and guidance. The very high active caseload at the current time, with nearly 70,000 current active cases in the community, and ongoing pressures in hospitals and residential aged care facilities, would, however, indicate that this is not the appropriate time to remove such requirements. As WA continues to transition to 'living with COVID' in coming weeks, decisions about ongoing restrictions on visitor groups in hospitals, residential aged care and disability facilities will need to be made. While it is optimal that people visiting vulnerable people in a health or residential care setting would be vaccinated, these same visitors will visit the patient or resident in their own homes regardless of their vaccination status.

Workforce mandates

On 19 and 22 October 2021, I provided further advice on the need for mandatory vaccination to mitigate the risks of critical services being degraded in the event of a lockdown or major restrictions and in preparation for opening of interstate and/or international borders, with consequent outbreaks. Together, these mandates covered most workers who were more likely to be exposed to COVID-19, more likely to transmit it to vulnerable people or who represented a workforce that was critical to the continued functioning of the essential services within our society. With the progression of the COVID-19 pandemic and the roll-out of the COVID-19 vaccines, I had previously recommended the mandating of COVID-19 vaccination for several different professional cohorts; these included hotel quarantine staff (28 April 2021), healthcare and health support workers (09 August 2021), mission critical police staff (25 August 2021), port workers (07 September 2021), freight and logistics workers (10 September 2021), resources workers (05 October 2021) and primary and community health workers (08 October 2021). On 21 December 2021, with the emergence of the Omicron (B.1.1.529) Variant of Concern (Omicron variant), I recommend that these same workers be mandated for a vaccine booster dose.

Public Health Grounds

In my advice at the time, I advised that there were good public health grounds for mandating the COVID-19 vaccine in the workforces outlined above, if the following conditions were met:

1. There is a serious public health risk – At the time, Australia had seen outbreaks of COVID-19 in several states, with ongoing community transmission in NSW, ACT and Victoria. In particular, NSW had experienced a major outbreak of COVID-19 caused by the Delta variant, with more than 59,000 cases and 372 deaths from COVID-19 during their Delta outbreak, with most deaths (75.5%) occurring in people who had not received any doses of vaccine.[2] WA's then two dose vaccination rate of 54% left WA vulnerable to major outbreaks should there be introduction and spread of the disease. This risk, combined with the then unrestricted movement and lifestyle, meant WA was at high risk of COVID outbreaks and rapid spread. It had been demonstrated that strategies that vaccinated essential workers early lead to

[2] COVID-19 Weekly Surveillance in NSW, NSW Health https://www.health.nsw.gov.au/Infectious/covid-19/Documents/covid-19-surveillance-report-20211013.pdf

substantial reductions in the number of infections, hospitalisations, deaths, and cases of long COVID.[3] In addition, vaccination would reduce staff absenteeism, sick leave and subsequent disruption of services, which could, in turn, contribute to morbidity and mortality from other causes.

2. The vaccine is safe and effective – All persons in WA were then being offered one of three vaccines, being the Comirnaty (Pfizer), the Spikevax (Moderna) vaccine or the AstraZeneca vaccine, all of which had completed a rigorous safety evaluation prior to registration by the Therapeutic Goods Administration (TGA). In addition, the vaccines had been given safely around the world in hundreds of millions of doses. The three vaccines provided excellent protection against the Delta variant, and, as was demonstrated in the NSW and Victoria outbreaks, serious disease was largely confined to the unvaccinated or partially vaccinated and was impacting more severely on younger age groups than previous variants. The vaccines also significantly reduced the rates of infection and subsequent spreading of the virus.

3. **The mandating of the vaccine is proportionate.** According to the principle of proportionality, additional measures are justified when the restrictions placed on individuals are both minimised and proportionate to the expected advantages offered by the more coercive policy. Although voluntary compliance by these workers was preferable to mandates, the inconsistent uptake of the vaccine at the time left me, as the Chief Health Officer, with limited options. Unvaccinated workers in settings in which exposure is likely, and/or the propensity for outbreaks is high, and/or where vulnerable people may be inadvertently exposed to COVID-19, can cause tremendous harm.

In my advice of 21 December 2021 on booster vaccination, I further advised that the proportionate response to protect the workforce from both infection and serious disease from a new variant (Omicron), which was clearly more transmissible and had a high degree of immune escape from a primary course of vaccination, was a booster dose where available. It was anticipated that, once WA opened its borders, there would be transmission of COVID locally and this was likely to lead to a sudden increase in cases due to the Omicron variant, as subsequently proved to be the case. The workforces that had been deemed to be more likely to be exposed, or were likely to transmit to vulnerable populations, such as staff in residential aged care facilities, or were critical because of the essential services they provided to the community, needed to be protected by a vaccine booster dose that was expected to markedly increase vaccine effectiveness and protect against serious disease.

The vaccination mandates for workers was implemented in a staged approach, with groups that were most at risk of contracting COVID (such as hotel quarantine and port workers) or most likely to spread it into geographically naïve populations (such as freight and resource industry workers) the first to be mandated, followed by those for whom vaccination would reduce the risk of spread to vulnerable groups (health care and aged care workers) and workforces involved with emergency response (police,

[3] Vaccine rollout strategies: The case for vaccinating essential workers early. https://journals.plos.org/globalpublichealth/article?id=10.1371/journal.pgph.0000020

fire and emergency services). The final broad groups were workers who work in areas that are critical to the ongoing functioning of society, to preserve business continuity (such as critical infrastructure and critical services). The need to protect the workforces themselves and the broader population was proportionate to the threat at that time, and mandates were assessed as a lawful and reasonable use of powers under the *Public Health Act 2016*.

Current Situation

Since the Omicron outbreak began in WA in January 2022, the course of WA's pandemic has been marked by a peak of cases in late March, followed by a staged reduction in the PHSMs and the Test, Trace, Isolate and Quarantine (TTIQ) settings. The reduction in these measures has led to a resurgence of cases above our initial peak, with a further peak in mid-May, but has not led to hospital services being overwhelmed, with both hospital and intensive care unit (ICU) admissions being 30% and 75% lower respectively than anticipated from WA Health's modelling, despite higher and more sustained caseloads than expected from the model. This is, in large part, due to our very high vaccination rates, particularly our high booster rate of over 81%.

By 01 June 2022, the final Group 2 workforces that were mandated to have a first dose vaccine by early January, and a second dose vaccine by early February, will have been vaccinated with their booster doses. This represents an appropriate point when an assessment can made as to whether the mandates have had the desired public health effect and if these mandates are required for some or all groups for any longer.

On public health grounds, the serious public health risk remains, with over 705,000 reported Omicron cases and 69,758 active cases, as of 27 May 2022. Unfortunately, there has been 236 deaths this year so far, primarily in those over 60 years of age. The vaccines remain safe and effective, particularly in preventing serious disease up to 6 months after a booster dose. The protection against symptomatic disease and subsequent transmission, however, is less, waning to between 45-65% after 5-9 weeks after the booster dose.[4]

The question of proportionality is more complex, given the wide range of groups being considered. With over 98% of the population over 11 years having received 2 doses of vaccine and 81.5% of the population having received 3 doses, the risk posed by unvaccinated and partially vaccinated people to the general population is now negligible, particularly as the protection against infection and onward transmission of the Omicron variant is less in two dose and booster vaccinated people than with Delta and other previous variants. In addition, with approximately 26% of the WA population having now having been infected, and with the Australian Technical Advisory Group on Immunisation (ATAGI) advice of 27 April 2022[5] that people should wait for a further 3 months before having further vaccination, the number of people requiring further

[4]Covid-19 Vaccine Effectiveness against the Omicron (B.1.1.529) Variant. NEJM. 2022. https://www.nejm.org/doi/full/10.1056/NEJMoa2119451

[5]ATAGI advice of 27 April 2022. https://www.health.gov.au/news/atagi-update-following-weekly-covid-19-meeting-27-april-2022

vaccines has decreased significantly. The risk, however, posed to high risk vulnerable populations from staff, including people in healthcare settings, in residential aged care and in residential disability services, remains significant and it remains proportionate to maintain mandates in these areas. Such mandates are supported nationally by Australian Health Protection Principal Committee (AHPPC) in its advice of 01 October 2021 (healthcare workers), 15 February 2022 (residential aged care workers) and 16 March 2022 (disability support workers).[6] Ongoing mandates for these groups have been implemented in all other Australian jurisdictions.

In line with the public health grounds outlined above, there is no ongoing need for a vaccine mandates for most workforces impacted, including the Group 1 and Group 2 workforces. With most workers now vaccinated with a booster dose, there is little additional benefit to continuing to apply a vaccination mandate beyond a few workforces, as outlined below.

Some mandated workplaces initially had a higher risk of exposure to COVID-19, such as in quarantine hotel workers and border/airport workers, and the vaccination mandates were put in place to protect those workforces from exposure. Given the high number of cases of COVID-19 in the general community, occupational exposure is no more likely than household or social exposure for most workers, with the notable exception of healthcare workers. Working at ports, airports, in quarantine hotels, in essential services or in essential businesses does not currently increase a person's risk of exposure and the vaccine mandates for these workers are no longer required.

Some workforces are known to be prone to outbreaks, such as abattoirs and remote mine sites. Due to the high transmission of COVID-19 in our community, many of these workforces have experienced cases or outbreaks in their workplaces and have managed these well. Use of special furloughing policies and the changes to WA's TTIQ settings have allowed most critical functions to continue for industry without undue pressure on business continuity. Continuing vaccine mandates will have no additional benefits in these groups. As they transition toward 'living with COVID', such workplaces will continue to use various strategies to manage COVID-19 risk in the workplace, in addition to a highly vaccinated workforce, which they should continue to encourage. In residential environments that are prone to outbreaks, such as mining camps and prisons, other mitigation strategies, such as mask use and testing, continue to be useful where physical distancing is unachievable.

As WA moves further toward 'living with COVID', our focus as a community needs to be on the protection of the most vulnerable, as it is these people who suffer most from the severe consequences of COVID-19 infection. People who are vulnerable to severe disease due to COVID-19 include the elderly, immunocompromised or those with chronic diseases. In addition to promoting vaccination directly to people who are at risk of severe disease, including the winter booster as advised by ATAGI on 25 May 2022,[7] there is benefit in continuing the vaccination mandate in workforces involved in

[6]AHPPC advice. https://www.health.gov.au/committees-and-groups/australian-health-protection-principal-committee-ahppc

[7] ATAGI advice. Expanded ATAGI recommendations on winter COVID-19 booster doses for people at increased risk of severe COVID-19 (health.gov.au)

directly providing care to such people. This has the dual effect of reducing transmission to vulnerable people and protecting the workforces, who are at a higher risk of exposure due to working in a healthcare environment.

On 15 February 2022, AHPPC noted that 'residents of aged care facilities are among the most vulnerable to severe outcomes of COVID-19' and recommended to National Cabinet that the residential aged care workforce receive a third/booster dose of a COVID-19 vaccination as a condition of their employment[8]. On 16 March 2022, AHPPC recommended to National Cabinet that disability support workers should also receive a third (booster) dose of vaccine as a condition of work or entry to a residence in which they are providing intensive supports to a National Disability Insurance Scheme participant.[9]

To be proportionate, the vaccine mandate should not be applied to all groups that may have intermittent contact with vulnerable people, as this is true of a range of industries and workplaces. The ongoing mandates should only be applied to workers in health care settings, and residential aged and disability care settings where there is frequent contact with the most vulnerable groups. Healthcare workers and healthcare settings themselves represent a broad group of people. An ongoing vaccination mandate should be only considered for those healthcare workers working in hospitals and primary healthcare settings, but not applied more broadly to all community care scenarios. Although other workforces, such as the WA Police Force or the Department of Fire and Emergency Services, may have intermittent contact with vulnerable people, the risk of prolonged contact with a high number of vulnerable people is not the same as for healthcare workers or those caring for people in aged care or disability residential settings. Except for Victoria, which is reviewing its mandatory vaccination settings, no other jurisdiction currently includes such workforces in its vaccination requirements.

Recommendations

Given the high rate of vaccination achieved in WA, and the high number of people already exposed to COVID-19, most vaccination Directions are now no longer required. The workforce vaccination mandates have undoubtably made a significant contribution to increasing the vaccination coverage rates, which are now some of the highest in Australia. However, with a third (booster) dose rate of greater than 81%, the public health need to continue most worker mandates is no longer present. With the transition to focusing our COVID mitigation efforts on the most vulnerable members of our community, the only vaccination mandates for workers that should be retained are for those workers who are in close contact with the most vulnerable groups. These workers should include health care workers in hospitals and primary health care settings and people working in aged or disability residential settings.

[8] Reference: Mandating booster vaccinations in residential aged care workers | Australian Government Department of Health

[9] Reference: Mandating booster vaccination for disability support workers | Australian Government Department of Health

It is, therefore, my recommendation, as Chief Health Officer, that on or after 1 June 2022, the following changes are made to vaccination mandates:

- remaining Proof of Vaccination Directions are retained, so visitors to residential aged care services and hospitals will continue to be required to be vaccinated or medically exempt to visit such facilities, but that these Directions be reviewed in 4 weeks; and
- all worker vaccination mandates be revoked except for healthcare and health support workers in hospitals and primary health care settings, and staff working in aged or disability residential care settings.

I note that the remaining Directions will only remain extant for as long as the Public Health State of Emergency, under the *Public Health Act 2016,* remains in place. Following this, the workplaces themselves will need to determine if an employer direction under the *Work Health and Safety Act 2020* or other internal arrangements are needed to support ongoing high vaccination rates of their workers. Similarly, employers no longer covered by these Directions will need to consider if an employer direction under the *Work Health and Safety Act 2020* is required to support ongoing high vaccination rates of some or all their workers

I will continue to monitor the situation and provide further public health advice as required.

Yours sincerely

Dr Andrew Robertson
CHIEF HEALTH OFFICER

27 May 2022